THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :21842 of 2007

DATED:12-10-2007

BETWEEN:

Koneru Mukunda Rao.

..... PETITIONER

AND

The District Collector,
Machilipatnam,
Krishna District & 3 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 4th respondent in insisting the NOC from the 1st respondent for alienation of D-Form Patta land (Issued in LD No.253/79, dated 31-12-1979), and the endorsement of the 1st respondent in D.Dis. (E3)2478, dated 25-08-2007, as illegal, arbitrary, and consequently direct the respondents 1 and 4 to allow the petitioner to dispose of the land under D-Form patta in LD.No.253/79, dated 31-12-1979, in terms of the G.O.Ms.No.1117 Revenue (Assignment-I) Department, dated 11-11-1993.

3. It is stated that the petitioner is an Ex-serviceman retired from the Indian Air Force in 1975 and he was assigned an extent of Ac.2.58 cents of dry land by way of D-Form patta in LD.No.253/1978, dated 31-12-1979, and the value of the land was fixed as Rs.86.05ps and the interest @ 46.85%. Out of Ac.2.58 cents, an extent of Ac.1.80 cents is in Sy.No.66/1 of Kuchipudi village and Ac.0.78 cents is in Sy.No.13/5 of Barlapudi village. It is stated that the petitioner made a representation on 01-02-2007 before the 1st respondent-District Collector to issue 'No Objection Certificate' permitting him to sell away the said land as he has suffered Coronary Artery disease and underwent by-pass surgery

at Apollo hospital, Visakhapatnam on 17-08-2001 and thereafter also he is not keeping good health and he is unable to cultivate the same and to clear off the debts he wanted to sell away the same. It is stated that the said representation has been rejected by the 1st respondent vide endorsement D.Dis.(E3)2478/07, dated 25-08-2007, stating that the said land is needed to Government for house sites under the 'Indiramma Pathakam' in the next year.

4. Learned counsel appearing for the petitioner submits that as per the orders of the Government in G.O.Ms.No.743 Revenue (Assignment-I) Department, dated 30-04-1963, the Ex-servicemen can be permitted to sell away their lands after expiry of ten years, and the same has been reiterated by the orders of the Government in G.O.Ms.No.1117 Revenue (Assignment-I) Department, dated 11-11-1993, but contrary to the aforesaid orders, rejection of the representation of the petitioner by the 1st respondent is illegal and unsustainable.

5. I am of the opinion that the ground on which the 1st respondent has rejected the representation of the petitioner cannot constitute a valid ground and if the similarly situated Ex-servicemen are permitted to sell any such land and when the benefit has been given by the Government it may not be just and proper to reject the request on the ground that the said land is required for the purpose of house sites in the next year.

6. Having regard to the facts and circumstances, the said endorsement is set aside and the matter is remitted back to the 1st respondent to re-consider the representation of the petitioner in the light of the aforesaid Government orders, and the orders of the Government issued from time to time with regard to the request of

the Ex-servicemen to consider their applications permitting them to sell away the said lands after expiry of ten years of the allotment.

7. Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

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V.ESWARAIAH,J

12th October, 2007.
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